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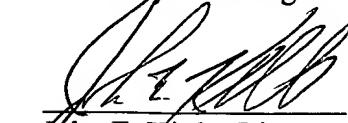
In re Application of : DECISION ON PETITION
Daniel Engvall et al : TO WITHDRAW
Serial No. : 09/763,312 : HOLDING OF
Filed : April 24, 2001 : ABANDONMENT
For : Transportable Apparatus for Treating Meniere's :
Disease

This is a decision on petitioner's request filed July 16, 2004 to review the holding of abandonment mailed February 11, 2003, for failure to respond to the Office action mailed June 28, 2002. The request indicates that a first request was filed November 25, 2003. The November 25, 2003 request is not in the file. The basis for the request is that applicant did not receive the communications mailed June 28, 2002 and February 11, 2003. There is no fee required for this petition.

In order to overcome the presumption of delivery of an Office action, a practitioner must submit the following: (1) a statement from the practitioner stating that the Office action was not received by practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket record indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. See 1156 OG 53.

The request filed July 16, 2004 includes elements (1) and (2) but not element (3). However, since an inspection of the file reveals that the Office inadvertently changed the correspondence address for the instant application (there is no record in the file of a request to have the correspondence address changed), the communications in question were mailed to an incorrect address, element (3) is not necessary and will not be required. The request is therefore GRANTED and the holding of abandonment withdrawn. Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner to have the correspondence address corrected and to have the Office action of June 28, 2002 re-mailed setting forth a new time period for response.

Summary: Holding of Abandonment Withdrawn.


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ak/08/02/04